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Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Seiko Epson Corporation and Epson America, Inc.,	)	Case No. 3:16-cv-00524-RCJ-VPC
	)	
Plaintiffs,	)	JOINT STIPULATION RE DATES AND
v.	)	PRELIMINARY INJUNCTION;
	)	[PROPOSED] ORDER
InkSystem LLC, et al.,	)	
	)	
Defendants.	)	
_____	)	

1 Plaintiffs Seiko Epson Corporation and Epson America, Inc. (collectively  
2 “Plaintiffs”) and Defendants InkSystem LLC, AF LLC, ART LLC, Lucky Print LLC,  
3 Inkredible LLC LLC, Andriy Kravchuk, Igor Bielov, and Artem Koshkalda (collectively  
4 “Defendants”), by and through their respective counsel of record, agree and stipulate as  
5 follows:

6 WHEREAS Plaintiffs filed a Complaint in this action on or about September 8,  
7 2016, charging Defendants with trademark counterfeiting, trademark infringement,  
8 unfair competition and related claims;

9 WHEREAS pursuant to this Court’s Order for Seizure, Docket No. 12, Plaintiffs  
10 served some of the Defendants with the Summons, Complaint and other documents on  
11 September 17, 2016, and also seized numerous of Defendants’ business records which  
12 Plaintiffs are currently reviewing;

13 WHEREAS following the Court’s Order for Seizure the Court also granted  
14 Plaintiffs’ Motion for a Preliminary Injunction on September 21, 2016, ordered that the  
15 Parties confer as to the language, and ordered Plaintiffs to prepare a Proposed Order;

16 WHEREAS Defendants objected to the provision in the Proposed Preliminary  
17 Injunction lodged by Plaintiffs on September 27, 2016, Docket No. 22-2, for additional  
18 time to complete the seizure;

19 WHEREAS the Parties agree that should the Court be inclined to review  
20 Plaintiffs’ request for additional time to complete the seizure separately, the Parties are  
21 otherwise in agreement as to all other language of the Proposed Preliminary Injunction, a  
22 revised copy of which is attached as Exhibit A;

23 WHEREAS should the Court in the interests of time enter the Parties’ revised  
24 Proposed Preliminary Injunction, the only remaining issue in Plaintiffs’ pending Motion  
25 for Entry of Proposed Preliminary Injunction, Docket No. 22, is Plaintiffs’ request for  
26 additional time to complete the initial seizure which may be consolidated into Plaintiffs’  
27 pending *Emergency Motion* for Additional Time to Complete Seizure for the same relief,  
28 Docket No. 21;

WHEREAS all of the Defendants have been served and are represented by the  
same counsel who just completed a week long jury trial;

WHEREAS the deadline to Answer or otherwise respond to the Complaint for  
the Defendants first served on September 17, 2016, was October 8, 2016; and

WHEREAS a brief continuance will allow Defendants' counsel time to meet with Defendants and prepare an Answer or response to the Complaint and will also permit Plaintiffs additional time for their preliminary review of Defendants' paper documents in preparation of an amendment to the Complaint.

NOW, THEREFORE, Plaintiffs and Defendants stipulate and agree that:

1. Defendants shall have through and until November 18, 2016, to file their response or Answer to Plaintiffs' Complaint.

2. Plaintiffs shall have through and until November 18, 2016, to file their First Amended Complaint.

3. The Proposed Preliminary Injunction attached hereto as Exhibit A may be entered by the Court at its earliest convenience.

4. Upon entry of the Preliminary Injunction, the only remaining issue outstanding in Plaintiffs' pending Motion for Entry of Proposed Preliminary Injunction, Docket No. 22, is Plaintiffs' request for additional time to complete the initial seizure.

IT IS SO STIPULATED:

DATED this 14<sup>th</sup> of October, 2016.

**J. ANDREW COOMBS,  
A PROFESSIONAL CORPORATION**

**WEIDE & MILLER, LTD.**

/s/ Annie S. Wang  
J. Andrew Coombs  
Annie S. Wang (NBN 10792)  
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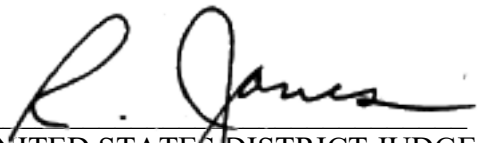
/s/ F. Christopher Austin  
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400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Defendants*

*Attorneys for Plaintiffs Seiko Epson  
Corporation and Epson America, Inc.*

IT IS SO ORDERED.

  
UNITED STATES DISTRICT JUDGE

Dated: 6<sup>th</sup> day of December, 2016.

**PROOF OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California and admitted *Pro Hac Vice* in this matter in the District of Nevada. My business address is 520 East Wilson Avenue, Suite 200, Glendale, California 91206.

On October 14, 2016, I served on the interested parties in this action with:

- JOINT STIPULATION RE DATES AND PRELIMINARY INJUNCTION;  
[PROPOSED] ORDER
- [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

in support for the following civil action:

Seiko Epson Corporation, et al. v. InkSystem LLC, et al.

X via the United States District Court CM/ECF system;

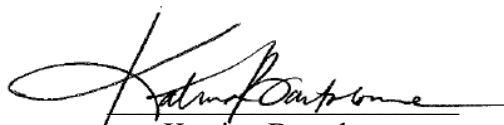
\_\_\_ by email to: *caustin@weidemiller.com*; and

\_\_\_ by placing a true copy thereof in an envelope to be immediately sealed thereafter. I am readily familiar with the office's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit.

F. Christopher Austin Weide & Miller, Ltd. 7251 West Lake Mead Blvd. 5th Floor, Suite 530 Las Vegas NV 89128
--

Place of Mailing: Glendale, California

Executed on October 14, 2016, at Glendale, California

  
Katrina Bartolome

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Attorneys for Plaintiffs  
 Seiko Epson Corporation  
 and Epson America, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Seiko Epson Corporation and Epson America, Inc.,	)	Case No. 3:16-cv-00524-RCJ-VPC
	)	
Plaintiffs,	)	[PROPOSED] ORDER FOR
v.	)	PRELIMINARY INJUNCTION
	)	
InkSystem LLC, et al.,	)	
	)	
Defendants.	)	

Plaintiffs Seiko Epson Corporation and Epson America, Inc. (collectively “Plaintiffs”) having filed their Motion for Preliminary Injunction (“Motion”) and against Defendants InkSystem LLC, AF LLC, ART LLC, Lucky Print LLC, Inkredible LLC LLC, Andriy Kravchuk, Igor Bielov, and Artem Koshkalda (collectively “Defendants”), and following the hearing on Plaintiffs’ Motion on September 21, 2016, the Court hereby GRANTS Plaintiffs’ Motion and makes the following findings:

1           1.       Plaintiffs are likely to succeed in showing that Defendants are using  
2 Plaintiffs' trademarks or marks confusingly similar to Plaintiffs' trademarks, including  
3 those attached hereto as Exhibit A ("Plaintiffs' Trademarks") in connection with the  
4 importation, manufacture, distribution, sale and offer for sale of counterfeit and/or  
5 infringing ink cartridges bearing unauthorized reproductions or substantially similar  
6 copies of registered trademarks owned by Plaintiffs ("Unauthorized Products").

7           2.       The sale of such Unauthorized Products will result in immediate and  
8 irreparable injury to Plaintiffs, if this relief is not ordered.

9           3.       The Court has jurisdiction over the subject matter of this action and over  
10 Plaintiffs and Defendants.

11           THEREFORE, IT IS HEREBY ORDERED THAT Defendants, their officers,  
12 agents, servants and any persons, firms or corporations acting in concert or in  
13 participation with them, or having knowledge of this Order by personal service or  
14 otherwise, are enjoined and restrained from:

15           a.       Directly or indirectly infringing Plaintiffs' Trademarks in any manner,  
16 including generally, but not limited to, manufacture, importation, distribution,  
17 advertising, selling and/or offering for sale any Unauthorized Products, and, specifically:

18                   i.     Importing, manufacturing, distributing, advertising, selling and/or  
19                   offering for sale the Unauthorized Products or any other unauthorized  
20                   products which picture, reproduce, copy or use the likenesses of or bear a  
21                   substantial similarity to any of Plaintiffs' Trademarks;

22                   ii.    Importing, manufacturing, distributing, advertising, selling and/or  
23                   offering for sale in connection thereto any unauthorized promotional  
24                   materials, labels, packaging or containers which picture, reproduce, copy  
25                   or use the likenesses of or bear a substantial similarity to Plaintiffs'  
26                   Trademarks;

- 1           iii. Engaging in any conduct that tends falsely to represent that, or is
- 2                 likely to confuse, mislead or deceive purchasers, Defendants' customers
- 3                 and/or members of the public to believe, the actions of Defendants, the
- 4                 products sold by Defendants, or Defendants themselves are connected
- 5                 with, are sponsored, approved or licensed by Plaintiffs, or are in some
- 6                 way affiliated with Plaintiffs;
- 7           iv. Affixing, applying, annexing or using in connection with the
- 8                 importation, manufacture, distribution, advertising, sale and/or offer for
- 9                 sale or other use of any goods or services, a false description or
- 10                representation, including words or other symbols, tending to falsely
- 11                describe or represent such goods as being those of Plaintiffs;
- 12       b. Destroying or otherwise disposing of:
  - 13           i. Merchandise falsely bearing Plaintiffs' Trademarks;
  - 14           ii. Any other products which picture, reproduce, copy or use the
  - 15                likenesses of or bear a substantial similarity to any of Plaintiffs'
  - 16                Trademarks;
  - 17           iii. Any labels, packages, wrappers, containers or any other unauthorized
  - 18                promotion or advertising material item which reproduces, copies,
  - 19                counterfeits, imitates or bears any of Plaintiffs' Trademarks;
  - 20           iv. Any molds, screens, patterns, plates, negatives or other elements,
  - 21                specifically including components and grey market infringing cartridges
  - 22                used for making or manufacturing products bearing Plaintiffs'
  - 23                Trademarks;
  - 24           v. Any sales and supply of customer journals, ledgers, invoices,
  - 25                purchase orders, inventory control documents, bank records, catalogs and
  - 26                all other business records, believed to concern the manufacture, purchase,
  - 27
  - 28



1 advertising, sale or offering for sale of the Unauthorized Products or  
2 component pieces, whether in electronic or paper form; and

3 Defendants their officers, agents, servants and any persons, firms or corporations  
4 acting in concert or in participation with them, or having knowledge of this Order by  
5 personal service or otherwise, will impound during the pendency of this action:

6 a. All unauthorized products bearing Plaintiffs' Trademarks, or likenesses  
7 thereof;

8 b. Any other unauthorized products which reproduce, copy, counterfeit,  
9 imitate or bear any of Plaintiffs' Trademarks or which picture, reproduce, copy or use the  
10 likeness of or bear a substantial similarity to Plaintiffs' Trademarks;

11 c. Any labels, packages, wrappers, containers and any other unauthorized  
12 promotional or advertising material which reproduce, copy, counterfeit, imitate or bear  
13 any of Plaintiffs' Trademarks or which picture, reproduce, copy or use the likeness of or  
14 bear a substantial similarity to Plaintiffs' Trademarks;

15 d. Any molds, screens, patterns, plates, negatives, equipment, machinery or  
16 equipment used for making or manufacturing the Unauthorized Products or unauthorized  
17 items which bear Plaintiffs' Trademarks or which bear a substantial similarity to any of  
18 Plaintiffs' Trademarks, specifically including the vacuum sealing and repackaging  
19 equipment and any OEM or grey market cartridges used to produce the Unauthorized  
20 Products or component pieces; and

21 e. Any sales and supply of customer journals, ledgers, invoices, purchase  
22 orders, inventory control documents, bank records, catalogs and all other business  
23 records, believed to concern the manufacture, purchase, advertising, sale or offering for  
24 sale of the Unauthorized Products or component pieces.

25 4. The seizure of unauthorized goods, machinery and/or other items is  
26 confirmed and all seized items will remain and continue to be impounded in Plaintiffs'  
27  
28

1 counsel's custody pending a final disposition of this action without the need to post any  
2 additional bond.

3         5.       This Preliminary Injunction does not extend to any lawful sales of  
4 remanufactured products, which are made with used Epson ink cartridges first sold by  
5 Epson to consumers in the United States, that are re-filled and sold with a non-Epson  
6 brand name or as "generic" cartridges without prominent or deceptive use of Epson's  
7 trademarks. The Parties do not waive and expressly reserve their respective rights and  
8 defenses under the patent laws including pursuant to any future changes in the law.

9         6.       This Preliminary Injunction also does not extend to the lawful resale of  
10 genuine Epson branded cartridges that have not been altered and are not materially  
11 different from Epson branded cartridges sold for resale in the United States in the  
12 condition they were first sold in the United States by Epson.

13         7.       Any resales of Epson trademarked products by Defendants must not be  
14 opened or otherwise infringing or unlawful.

15         8.       The findings herein are made without prejudice as to future findings of  
16 the Court by application of any party.

17         9.       This Preliminary Injunction is issued without the posting by Plaintiffs of  
18 any additional bond and is effective as of September 21, 2016.

19         10.      None of the foregoing constitutes an admission by Plaintiffs, or either of  
20 them, that Defendants are Authorized Epson Resellers.

21         11.      Upon entry hereof, the Temporary Restraining Order herein, dated  
22 September 13, 2016, is vacated.

23         12.      This Order shall be deemed to have been served upon Defendants at the  
24 time of the signing thereof by the Court.

25         ///

26         ///

1           13.     This matter will remain open and pending before the Court to resolve any  
2 remaining issues.

3                               IT IS SO ORDERED.

4  
5  
6                               \_\_\_\_\_  
7 UNITED STATES DISTRICT JUDGE

8                               Dated: \_\_\_\_\_  
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**SEC'S TRADEMARKS**

<b>Trademark</b>	<b>Registration Number</b>	<b>Date of Registration</b>	<b>Class(es) of Goods</b>
EPSON	1,134,004	4/29/1980	9
EPSON	2,144,386	3/17/1998	2, 9 and 16
EPSON	2,949,374	5/10/2005	16
EPSON	3,092,025	5/16/2006	9
EPSON	3,520,274	10/21/2008	9
<b>EPSON</b> EXCEED YOUR VISION	3,448,351	6/17/2008	2, 9 and 16
Better Products for a Better Future	3,875,333	11/16/2010	2, 9, 16 and 40
DURABRITE	2,644,235	10/29/2002	2

**PROOF OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California and admitted *Pro Hac Vice* in this matter in the District of Nevada. My business address is 520 East Wilson Avenue, Suite 200, Glendale, California 91206.

On October 14, 2016, I served on the interested parties in this action with:

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[PROPOSED] ORDER
- [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

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  X   via the United States District Court CM/ECF system;

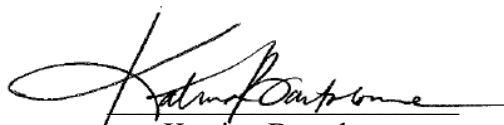
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Executed on October 14, 2016, at Glendale, California

  
Katrina Bartolome